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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/032,766
Filing Date: December 26, 2001
Appellant(s): RODMAN ET AL.

Raymond Scott Reese Reg. No. 47891
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/22/2008 appealing from the Office action mailed 04/03/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20070192410	Liversidge et al.	8-2007
20010016038	Sammon et al.	8-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 58 and 59 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The newly added paragraph of the Specification dated 01/11/2008 defines the machine readable medium as a program, which makes these claims non-statutory. Applicant is asked to amend or cancel the claims 58 and 59 to alleviate this objection, or point to specific areas of the application that state the phrase "a machine readable medium", or give a **processor, memory or disk disclosed in the specification** that is intended to perform the functions of the claim language the definition of machine readable medium so it is known what the Applicant is intending to claim as a machine readable medium. Further analysis of how to alleviate this objection may be found in the Interim Guidelines on 101 which have been entered into the MPEP.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 42 – 53 and 55 – 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Liversidge et al. (2007/0192410), (hereinafter Liversidge).

Referencing claim 42, as closely interpreted by the Examiner, Liversidge teaches a conference endpoint comprising:

a CPU, (e.g., Figure 1, 3 and 4 and supporting areas of the specification);

a telephone line interface for coupling said conference endpoint to a telephone line, (e.g., Figure 1, 3 and 4 and supporting areas of the specification);

a network interface for coupling said conference endpoint to a computer network, (e.g., Figure 1, 3 and 4 and supporting areas of the specification);

a microphone for generating near speech signals for transmission over said telephone line, said near speech signals being representative of speech of a near conference participant, (e.g., Figure 1, 3 and 4, labeled "phone" and supporting areas of the specification);

a speaker for converting to sound remote speech signals received from a remote device over said telephone line, said remote speech signals being representative of speech of at least one remote conference participant, (e.g., Figure 1, 3 and 4, labeled "phone" and supporting areas of the specification);

a data conference initiation module, coupled to said network interface and to said telephone line interface for transmitting a data conference initiation request to a conference server over said computer network, for receiving a data conference code generated by said conference server,

wherein said data conference code, when presented to said conference server by said remote device, authorizes said remote device to join said data conference, (e.g., Figure 14 & ¶100, As can clearly see in Fig. 14 shows a type of data conference code, elements 234, 236 and 238 for example. This is used when a new conference is set up and a conference team is made.),
and for responsively transmitting over said telephone line a data conference invitation to said remote device, said conference invitation including information representative of said data conference code, (e.g., ¶ 0073, 0186 – 0188); and
a memory for storing one or more files containing conference data distributed by said conference server via said computer network during a data conference, wherein said CPU is coupled to said telephone line interface, said network interface, said data conference initiation module, and said memory, (e.g., ¶ 0073, 0186 – 0188).

Referencing claim 43, as closely interpreted by the Examiner, Liversidge teaches said data conference initiation module transmits said conference initiation request in response to a predetermined user input, (e.g., ¶ 0073, 0186 – 0188).

Referencing claim 44, as closely interpreted by the Examiner, Liversidge teaches a display device coupled to said network interface for displaying said conference data, (e.g., Figure 1, 3 and 4 and supporting areas of the specification).

Referencing claim 45, as closely interpreted by the Examiner, Liversidge teaches said conference data comprises video information, (e.g., ¶ 0175).

Referencing claim 46, as closely interpreted by the Examiner, Liversidge teaches the data conference initiation module is further configured to transmit a conference join request to said conference server over said computer network responsive to a received conference invitation, (e.g., ¶ 0073, 0186 – 0188).

Referencing claim 49, as closely interpreted by the Examiner, Liversidge teaches said data conference initiation module is further configured for transmitting over said computer network a data conference invitation to said remote device, (e.g., ¶ 0073, 0186 – 0188).

Referencing claim 50, as closely interpreted by the Examiner, Liversidge teaches a method for initiating and managing a data conference from a near conference endpoint, comprising:
at the near conference endpoint:
establishing a connection over a telephone line with at least one remote conference endpoint, (e.g., ¶ 0073, 0188);
transmitting a data conference initiation request to a conference server over a computer network, (e.g., ¶ 0073, 0188);
receiving from the conference server a unique data conference code corresponding to said data conference initiation request, (e.g., ¶ 0073, 0188),

wherein said data conference code, when presented to said conference server by said remote device, authorizes said remote device to join said data conference, (e.g., Figure 14 & ¶100, As can clearly see in Fig. 14 shows a type of data conference code, elements 234, 236 and 238 for example. This is used when a new conference is set up and a conference team is made.);

generating an audio signal representative of said data conference code, (e.g., ¶ 0073, 0188);

transmitting said audio signal to said at least one remote conference endpoint over said telephone network, (e.g., ¶ 0073, 0188); and

receiving one or more files containing conference data distributed by said conference server via said computer network during said data conference, (e.g., ¶ 0073, 0188).

Referencing claim 51, as closely interpreted by the Examiner, Liversidge teaches the act of generating an audio code comprises generating a string of DTMF tones, (e.g., ¶ 0073, 0188).

Referencing claim 52, as closely interpreted by the Examiner, Liversidge teaches the act of transmitting a data conference initiation request is predetermined in response to a predetermined user input, (e.g., ¶ 0186 – 0188).

Referencing claim 55, as closely interpreted by the Examiner, Liversidge teaches said conference data is representative of a document, (e.g., ¶ 0016, 0082).

Referencing claim 56, as closely interpreted by the Examiner, Liversidge teaches said conference data is representative of a presentation slide, (e.g., ¶ 0016).

Referencing claim 57, as closely interpreted by the Examiner, Liversidge teaches the act of converting at least one of said one or more files from a first format to a second format, (e.g., ¶ 0055).

The teachings of claims 47, 48, 53, 58 – 65 are similar to the above claim language and therefore the teachings of claims 47, 48, 53, 58 – 65 can be found in the same cited areas of the prior art above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liversidge in view of Sammon et al. (20010016038), (hereinafter Sammon).

As per claim 54, as closely interpreted by the Examiner, Liversidge does not specifically teach the act of distributing one or more files comprising conference data comprises transmitting a web page. Sammon teaches the act of distributing one or more files comprising conference data comprises transmitting a web page, (e.g., ¶0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Sammon with

Liversidge because Liversidge ability to sending multimedia data and documents would give one of ordinary skill in the art the ability to send a web pages since it is known in the art that a web page can comprise text and multimedia information, see KSR, 82 USPQ2d at 1397.

(10) Response to Argument

In the Arguments, Appellant states that the 101 rejection is improper since the wording of "encompass", that is stated in the newly amended specification as of 1/11/2008, is to enclose or be apart of as defined by a Webster's 7th New Collegiate Dictionary. Further support of a machine readable medium is found in paragraph [0029] of the Appellant's specification.

As to this argument, Examiner disagrees and agrees with the Appellants one definition of encompass. Yes, the one definition does state that it can be interpreted as a program is part of a storage medium but in the definition it also states that encompass can be defined as "include". One interpretation is that when one uses the term include, such as in a claim, it starts a list of what the term is going to be defined as. Therefore, one can say that a machine readable medium is only a program, since that is the only term in the list.
Regardless of the fact, Appellant has pointed to a section of the specification that they mean for a machine readable medium to be defined as, i.e., ¶ 0029, RAM, ROM, storage devices, etc, that store program instructions executable by a CPU. Therefore, the 101 rejection is withdrawn.

In the Arguments, Appellant argues in substance that Liversidge does not disclose, "… wherein said conference code, when presented to said conference server by said remote device, authorizes said remote device to join said data conference…" as recited in claims 42 and 50.

Appellant further states that there is no teaching in Liversidge of the StatusEvent message authorizing any remote device to join a data conference.

As to this argument, in the independent claims a conference code is not defined. Therefore, as stated in ¶ 0100 of Liversidge, the StatusEvent message is used to notify the creator of a team that specific users are now apart of the team which could be interpreted as being authorized to be in a team. Furthermore, when the CreateTeam message is received by one of the servers, it then continues to communicate with other servers to create said team. These messages could be interpreted as different conference codes to authorize users to join a data conference team which is being set up by the servers in the network in response to the creator of the team's request to set up a team of clients to participate in a function.

Other areas of interpretation in Liversidge that could read on the limitation of "conference code" is stated in ¶ 0188, in which it is stated that a client accepts the invitation to join and uses a keypad to transmit a dual tone modulated frequency (DTMF) signal to be accepted to the conference. In other words, the DTMF is a sequence of numbers, or a "conference code", that acts like a "password" to authorize the clients that are invited to the conference to join in. Therefore it is clear that Liversidge teaches, in more than one light, the limitation stated above.

Arguments with regards to argument 2, starting on page 18 of the Appeal Brief claims 53, 58 and 59, can also be grouped with the above response and therefore Liversidge teaches the limitation quoted for these claims in argument 2

In the Arguments, Appellant argues in substance that Liversidge fails to disclose the limitation, "… responsively transmitting over said telephone line a data conference invitation to said remote device, said conference invitation including information representative of said data conference code."

As to this argument, Appellant is asked to view the above cited area of Liversidge and ¶ 0185 et seq., in which it is clear that an invitation to join the team is sent to a client 'C'. As seen in ¶ 0186, the client is contacted and multiple numbers are sent to client C, i.e., dialed number of the team member and a dialed number of the conference bridge, which is used by the client C to access the bridge and act as an authentication for communicating with the team, "conference code". Paragraphs 0187-0188 further support these sets of steps to authorize a client.

In the Arguments, Appellant argues in substance that Liversidge does not teach the claim limitation of claim 50 that states, "… generating **an audio signal representative of said data conference code;** transmitting said **audio signal to said at least one remote conference endpoint** over said telephone network."

As to this argument, Appellant is asked to look at ¶ 0188, which states a DTMF, which is an audio signal that represents a data conference code. Furthermore, Liversidge's invention is in a Public Switched **Telephone Network** (PSTN), ¶ 0062, last sentence.

In the Arguments, Appellant argues in substance that Liversidge does not teach the limitation of claims 47 and 63 that state, "… wherein said conference invitation comprises a string of Dual Tone Multi Frequency (DTMF) tone."

As to this argument, Appellant is asked to view ¶ 0186, which states that a dial**ed** number of the conference bridge is communicated to the client. This could leave one to believe that a dialed number that is communicated to the client could be in a DTMF signal since the network which the devices are in is a PSTN and that the dialed number is also used when the client attempts to contact the server as stated in paragraph 0188, as a DTMF signal.

In the Arguments, Appellant argues in substance that Liversidge does not disclose, "… receive over the telephone line interface from a remote conference endpoint a data conference invitation including information representative of a data conference code, wherein the data conference code when presented to a conference server by the endpoint authorizes the endpoint to join the data conference, and further configured to transmit a data conference join request including the data conference code to the conference server over the computer network in response to the received conference invitation," as taught in claim 60.

As to this argument, Appellant is asked to view the above responses to arguments since this argument is substantially the same as the other argued claims and therefore the responses that are stated can be applied herein.

In the Arguments, Appellant argues in substance that Sammon fails to teach or suggest the server generating a conference code in response to the conference initiation request, wherein said data conference code, when presented to the conference server, authorizes said at least one remote conference endpoint to join said data conference. Furthermore, Sammon fails to teach or suggest transmitting the conference code to the requesting endpoint over the computer network, as also required by claim 53.

As to this argument, Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/David E. England/

Examiner, Art Unit 2443

Conferees:

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